

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW HAMPSHIRE**

Timothy O'Meara,)
)
Plaintiff,)
)
v.)
)
New Hampshire Supreme Court)

PETITION FOR INJUNCTIVE RELIEF

1. Petitioner Timothy O'Meara is a licensed New Hampshire attorney with an address of 45 Summer Street, Keene, New Hampshire. The respondent is the New Hampshire Supreme Court, with an address of One Noble Drive, Concord, New Hampshire 03301.

2. This action raises a federal question under the Fourteenth Amendment to the United States Constitution and 42 USC §1983. This Court has subject matter jurisdiction pursuant to 28 USC §1331. The Court has personal jurisdiction over the parties, both of which are New Hampshire residents and/or conduct business in the state. Venue is proper pursuant to 28 U.S.C. § 1391.

3. This petition concerns an attorney discipline matter currently before the New Hampshire Supreme Court, *In the Matter of Timothy A. O'Meara* (LD-2011-0002). Attorney O'Meara's former clients, James and Anita Conant, filed a complaint with the New Hampshire Professional Conduct Committee ("PCC") alleging violations of the New Hampshire Rules of Professional Conduct. A contested hearing before a Hearing Panel in the fall of 2009 resulted in a finding of three violations, and a recommendation of disbarment. The PCC heard oral argument in May 2010. It issued an order in August 2010 adopting many of the Hearing Panel's

findings, and ordering Disciplinary Counsel to file a petition with the New Hampshire Supreme Court requesting a three-year suspension from the practice of law.

4. The underlying litigation arose from a traffic accident in May 2005 that caused Anita Conant devastating injuries, including severe paralysis. During Attorney O'Meara's representation of the Conants from May 2005 to March 2006, frictions developed between O'Meara and his clients, principally concerning the amount of his fee, and whether he had exceeded his authority by making a *Dumas* demand for the defendant's policy limits of \$11,000,000.00, which the defendant purported to "accept" to avoid excess liability. That summary is a great simplification of the complicated interactions between O'Meara and the Conants during the litigation, which is more fully described in O'Meara's memorandum of law.

5. The present dispute involves the New Hampshire Supreme Court's decisions concerning the page limits of O'Meara's brief. Due to the wide-ranging nature of the claims against him, the need to fully explain the history and context of his actions, and the fact that the Supreme Court is not acting in an appellate role but rather as the only body authorized to impose a three-year suspension in the first instance, O'Meara sought leave to file a brief of 134 pages. The Supreme Court denied the request beyond permitting him a 50-page brief.

6. Attorney O'Meara is likely to suffer irreparable harm in the absence of injunctive relief. The balance of equities tips in his favor, and an injunction will be in the public interest.

Count I (Fourteenth Amendment Due Process; 42 U.S.C. § 1983)

7. By limiting Attorney O'Meara's brief to 50 pages, the New Hampshire Supreme Court has violated his Fourteenth Amendment right to due process of law prior to the deprivation of a protected interest in practicing his profession.

Relief Sought

The petitioner seeks an injunction directing the New Hampshire Supreme Court to allow him to file a 134-page brief in his own defense.

Respectfully submitted,

TIMOTHY O'MEARA

By his attorneys,

RANSMEIER & SPELLMAN
PROFESSIONAL CORPORATION

Date: May 15, 2012

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